

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

THE ESTATE OF ERIK A. POWELL,) Civil No.
THROUGH PERSONAL REPRESENTATIVE) CV04-00428LEK
MARY K. POWELL; THE ESTATE OF)
JAMES D. LAUGHLIN, THROUGH PERSONAL)
REPRESENTATIVE RAGINAE C. LAUGHLIN;)
MARY K. POWELL, INDIVIDUALLY;)
RAGINAE C. LAUGHLIN, INDIVIDUALLY;)
CHLOE LAUGHLIN, A MINOR, THROUGH)
HER NEXT FRIEND, RAGINAE C.)
LAUGHLIN,)

Plaintiffs,)

vs.)

CITY AND COUNTY OF HONOLULU,)

Defendant,)

and)

CITY AND COUNTY OF HONOLULU,)

Third-Party Plaintiff,)

vs.)

UNIVERSITY OF HAWAII, a body)
corporate; JOHN DOES 1-10, JANE)
DOES 1-10; DOE CORPORATIONS and)
DOE ENTITIES,)

Third-Party Defendants.)

DEPOSITION OF DANIEL NEVES

Taken on behalf of Plaintiffs at the Law Offices
of Ian L. Mattoch, 737 Bishop Street, Suite 1835,
Honolulu Hawaii, commencing at 2:00 p.m. on March
24, 2006, pursuant to Notice.

Before: WILLIAM T. BARTON, RPR, CSR NO. 391

EXHIBIT "12"

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1 Q. Can you describe the wave height, the
2 winds, anything that describes the conditions that
3 day?

4 A. I wouldn't have went out that day by
5 myself in that general area, just because there
6 wouldn't be no reason to do that.

7 There was a lot of wake. There was a
8 lot of wind. There was, you know -- it was just
9 really hard to see that time. The glare, just
10 everything. All the conditions itself.

11 Q. Would you describe it as rough?

12 A. Yeah.

13 Q. And choppy?

14 A. Yeah. The whitewater was going over the
15 ledge.

16 Q. And my understanding, from speaking with
17 other lifeguards at Hanauma Bay is that the Slot
18 current is very strong?

19 A. Hanauma Bay has its own power. It could
20 be happy one day, and the next day could not be
21 happy. But there is always a current through both
22 Back Door and the Slot.

23 Q. From your experience, was there a
24 certain area of the bay where you found more
25 swimmers in distress than other areas?

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1 A. Inside of the reef more than outside,
2 yes.

3 Q. Did you rescue a fair number of people
4 or a lot of people in the Slot area?

5 A. Yes.

6 Q. And if you can generalize, usually, what
7 was the reasoning for them being in distress?

8 A. Pretty much not knowing that that buoy
9 is not a -- even though, what it is people say,
10 Hey, watch out for the red buoy, that's the place
11 where the Slot is, they are thinking it is a
12 flotation device. They get tired. They swim to
13 it and hold on to it.

14 And people didn't really know. They
15 just think it's a flotation device, and that's the
16 closest thing to hang on to, because you're not
17 supposed to step on the reef.

18 Q. Does it float people?

19 A. Yeah. Down. If you hold on to the
20 buoy, the current is going to suck you out, and
21 you are going down.

22 Q. When you refer to "the buoy," which buoy
23 are you talking about?

24 A. It's a just a red buoy they use on
25 boats.

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1 Q. About how large?

2 A. I would say about 12 inches in diagonal,
3 12, 12 round, and hanging from a nylon rock
4 climbing rope with a brick weight.

5 But the thing is, they would be gone
6 every single day, because of the tide change, so
7 we would have to move them.

8 Q. Where did you initially place this buoy?

9 A. Right inside of the Slot.

10 Q. And what was the purpose for the buoy?

11 A. To let people know that that's an area
12 where the Slot is.

13 Q. And was that put up there every day?

14 A. Correct. At least one.

15 Q. And how many more at any given time? I
16 mean, would there be up to how many?

17 A. Five. We were trying to put like five
18 at a time at one point, after the fact.

19 Q. After these drownings?

20 A. Correct.

21 Q. When there were five buoys in front the
22 Slot, would they just be across the opening?

23 A. Kind of diagonal, like from the reef to
24 the Slot, there's an area where the rocks are
25 sticking out of.

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1 It would be inside of the rock area. So
2 it would be closer to us on the left side, but
3 going outwards, because the current wasn't too
4 strong on the right side over where the -- in
5 certain days, I should say, in the Triangle area,
6 I would call that.

7 Q. Was there a particular season that
8 seemed rougher than others at Hanauma Bay?

9 A. Yeah. Yes.

10 Q. When would that be?

11 A. Like I said, Hanauma is just its own
12 place. One day, it could be beautiful, and the
13 next day, it could be just gnarly and waves
14 coming.

15 Q. Throughout the year?

16 A. Yeah.

17 Q. So it's not like summer with the south
18 swells are any rougher than winter?

19 A. Well, there is. I mean, don't get me
20 wrong. There is a different kind of swell that
21 comes in. But not as far as, like, choppy wise or
22 surfing wise. There's always some kind of type of
23 action over there.

24 Q. After each rescue, I should say, maybe
25 major rescue, was there a review process or